

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. 4:19CR0966 (SRC/SPM)
v.)	
)	
ERRICK ROACH,)	
)	
Defendant.)	

GOVERNMENT’S UNOPPOSED MOTION TO DISMISS INDICTMENT
AGAINST DEFENDANT ERRICK ROACH WITHOUT PREJUDICE
PURSUANT TO FEDERAL RULE OF CRIMINAL PROCEDURE 48

COMES NOW the United States of America, by and through Jeffrey B. Jensen, United States Attorney for the Eastern District of Missouri, and Allison H. Behrens, Assistant United States Attorney for said District, and for the reasons set forth below, moves to dismiss the indictment against Defendant Errick Roach without prejudice. Defendant Errick Roach does not oppose the Government’s motion.

1. On November 21, 2019, a federal grand jury sitting in St. Louis, Missouri, returned an eight-count indictment against Defendant Errick Roach (“Roach”) and co-defendant Tykese Lofton (“Lofton”).

2. The indictment charges in Count I that, on October 6, 2019, Lofton and Roach took a motor vehicle from the presence of another using force, violence and intimidation, in violation of 18 U.S.C. §§ 2119 and 2. Count II charges that Lofton and Roach used a firearm in furtherance of the carjacking on October 6, 2019, in violation of 18 U.S.C. § 924(c).

3. The indictment further charges in Count III that, on October 8, 2019, Lofton and Roach took a motor vehicle from the presence of another using force, violence and intimidation,

again in violation of 18 U.S.C. §§ 2119 and 2. Count IV charges Lofton and Roach with a violation of 18 U.S.C. § 924(c) in relation to that October 8, 2019, carjacking.

4. Count V and VI of the indictment apply only to co-defendant Lofton.

5. Counts VII and VIII of the indictment apply only to Roach. In those counts, the indictment charges Roach with a carjacking that occurred on October 15, 2019, in violation of 18 U.S.C. § 2119 (Count VII), as well as using a firearm in furtherance of that carjacking in violation of 18 U.S.C. § 924(c) (Count VIII).

6. Defendant Errick Roach made an initial appearance in the case on December 6, 2019, at which time he was appointed an attorney under the Criminal Justice Act. A Magistrate Judge ordered him detained on December 12, 2019. Roach was arraigned on the charges on December 18, 2019. In January 2020, Roach retained a new attorney, Ryan Smith. The Government's discovery was produced to Roach's defense counsel shortly thereafter.

7. At the time of the indictment, the evidence against Errick Roach included, among other things, victim identification. More specifically, each of the victims of the three carjackings identified Errick Roach as one of the perpetrators. The Government also had additional witness identification implicating Roach.

8. Roach's counsel subsequently provided the Government with information that he believes establishes a defense for Roach with respect to all three of the incidents charged. The Government was unaware of this information at the time the indictment was returned.

9. In order to assess the information fully, the government was required to obtain and then analyze the information Roach believes establishes his defense. Moreover, the Government needed to acquire and then analyze an additional quantity of evidence for purposes of corroborating or rejecting Roach's defense. Within the last seven days, this analysis identified more information for the Government to consider.

10. The Government has reviewed and continues to review the relevant information carefully, particularly in light of the victim identifications. However, based on the Government's current assessment of the information, the Government believes a dismissal of the charges against Errick Roach, without prejudice, is appropriate at this time.

11. Federal Rule of Criminal Procedure 48(a) provides that the government may, "with leave of court, dismiss an indictment..." Fed.R.Crim.P 48(a). A dismissal pursuant to Rule 48(a) is without prejudice. *United States v. Oliver*, 950 F.3d 556 (8th Cir. 2020) (citing *United States v. Arradondo*, 483 F.2d 980, 983 (8th Cir. 1973)).

12. Defense counsel consents to the dismissal of the case against Errick Roach, without prejudice.

13. Therefore, for the reasons stated, the United States respectfully requests that the Court dismiss Counts I, II, III, IV, VII and VIII against only Errick Roach and that such dismissal be without prejudice.

WHEREFORE, for the reasons stated, the United States respectfully requests that the Court grant its unopposed motion to dismiss Counts I, II, III, IV, VII and VIII of the indictment pursuant to Federal Rule of Criminal Procedure 48(a) and that such dismissal be without prejudice.

Respectfully submitted,

JEFFREY B. JENSEN
United States Attorney

s/ Allison H. Behrens

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CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2020, the foregoing was filed with the Clerk of the Court and was served by way of this Court's electronic notification system upon all counsel of record, including Defendant Errick Roach's attorney Ryan Smith.

A. Allison H. Behrens

Allison H. Behrens, #38482 MO
Assistant United States Attorney